

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF FEDERAL COMMUNICATIONS)	
COMMISSION'S TRIENNIAL REVIEW ORDER)	CASE NO.
REGARDING UNBUNDLING REQUIREMENTS)	2003-00379
FOR INDIVIDUAL NETWORK ELEMENTS)	

AT&T's RESPONSES TO BELL SOUTH'S
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS

AT&T Communications of the South Central States, LLC (hereinafter "AT&T"), pursuant to the Order Establishing Docket, Procedure and Schedule entered by the Kentucky Public Service Commission (hereinafter "Commission") and Kentucky Rules of Practice and Procedure, hereby submits the following objections, both general and specific and the following Responses to BellSouth Telecommunications, Inc.'s (hereinafter "BellSouth") Second Request or Production of Documents, served on November 24, 2003. Should additional responsive information be discovered at any time prior to hearing, AT&T reserves the right to supplement, revise, and/or modify these Responses.

OVERVIEW

These objections are preliminary in nature. AT&T reserves the right to supplement, revise, and/or modify these objections should additional grounds for objection be discovered as AT&T prepares its responses to any discovery or at any time prior to hearing.

GENERAL OBJECTIONS

AT&T makes the following general objections to the Requests which will be incorporated by reference into AT&T's specific responses to BellSouth's Second Request for Production of Documents.

1. Definitions

A. AT&T objects to the lengthy "Definitions" section of BellSouth's Second Request for Production to AT&T to the extent that such terms are overly broad, unduly burdensome, irrelevant, oppressive and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, AT&T objects to the "Definitions" section to the extent that it utilizes terms that are subject to multiple interpretations, but are not properly defined or explained for purposes of these Requests.

B. AT&T objects to the "Definitions" section of BellSouth's Second Request for Production to AT&T to the extent that the definitions operate to include the discovery of information protected by attorney/client privilege, the work product doctrine, or any other applicable privilege.

C. AT&T objects to the "Definitions" section of BellSouth's Second Request for Production to AT&T to the extent that the definitions operate to include the discovery of information and/or materials containing the mental impressions, conclusions, opinions or legal theories of any attorney or other representative of AT&T concerning the subject of the proceeding and prepared and developed in anticipation of litigation.

D. AT&T objects to the "Definitions" section of BellSouth's Second Request for Production to AT&T to the extent that the definitions operate to impose discovery obligations on AT&T inconsistent with, or beyond the scope of, what is permitted under the *Orders* issued in this proceeding on October 2, 2003 and November 4, 2003 by the Kentucky Public Service Commission and other applicable Kentucky law.

E. AT&T objects to the "Definitions" section of BellSouth's Second Request for Production to AT&T to the extent that the definitions operate to seek discovery of matters other than those subject to the jurisdiction of the Commission pursuant to the FCC's Triennial Review Order and other applicable Kentucky law.

F. AT&T objects to the "Definitions" section of BellSouth's Second Request for Production to AT&T to the extent that the Requests purport to seek disclosure of information that is proprietary confidential information or a "trade secret" pursuant to Kentucky law.

G. AT&T objects to the definitions of "you" and "your," "AT&T," and "person" to the extent that the definitions include natural persons or entities which are not parties to this proceeding, not subject to the jurisdiction of the Commission, and not subject to the applicable discovery rules. Subject to the foregoing, and without waiving any objection, general or specific, unless otherwise ordered, responses will be provided on behalf of AT&T Communications of the South Central States, LLC, which is a certificated carrier authorized to provide regulated communications services in Kentucky and which is a party to this proceeding.

2. Instructions

A. AT&T objects to the "General Instructions" section of BellSouth's Second Request for Production to AT&T to the extent that the "instructions" operate to impose discovery obligations on AT&T inconsistent with, or beyond the scope of, what is permitted under the *Orders* issued in this proceeding on October 2, 2003 and November 4, 2003 by the Kentucky Public Service Commission and other applicable Kentucky law.

B. AT&T objects to the "General Instructions" section of BellSouth's Second Request for Production to AT&T to the extent that the "instructions" operate to seek disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney or other representative of AT&T concerning the subject of litigation.

C. AT&T objects to the "General Instructions" section of BellSouth's Second Request for Production to AT&T to the extent that the "instructions" operate to seek disclosure of "all" information in AT&T's "possession, custody or control" and to the extent that said "instruction" requires AT&T to provide information or materials beyond its present knowledge, recollection or possession. With respect thereto, AT&T has

employees located in many different locations in Kentucky and other states. In the course of conducting business on a nationwide basis, AT&T creates numerous documents that are not subject to either the Commission or FCC record retention requirements. These documents are kept in numerous locations and frequently are moved from location to location as employees change jobs or as business objectives change. Therefore, it is impossible for AT&T to affirm that every responsive document in existence has been provided in response to all Requests. Instead, where provided, AT&T's responses will provide all information obtained by AT&T after a reasonable and diligent search conducted in connection with those Requests. Such search will include only a review of those files that are reasonably expected to contain the requested information. To the extent that the "instructions" require more, AT&T objects on the grounds that compliance would be unduly burdensome, expensive, oppressive, or excessively time consuming to provide such responsive information.

3. General Objections to Requests

A. AT&T objects to BellSouth's Second Request for Production to AT&T to the extent that the Requests are overly broad, unduly burdensome, irrelevant, oppressive and not reasonably calculated to lead to the discovery of admissible evidence.

B. AT&T objects to BellSouth's Second Request for Production to AT&T to the extent that the Requests purport to seek discovery of information protected by attorney/client privilege, the work product doctrine, or any other applicable privilege.

C. AT&T objects to BellSouth's Second Request for Production to AT&T to the extent that the Requests purport to seek discovery of information and/or materials containing the mental impressions, conclusions, opinions or legal theories of any attorney or other representative of AT&T concerning the subject of the proceeding and prepared and developed in anticipation of litigation.

D. AT&T objects to BellSouth's Second Request for Production to AT&T to the extent that the Requests purport to impose discovery obligations on AT&T inconsistent with, or beyond the scope of, what is permitted under the *Orders* issued in this proceeding on October 2, 2003 and November 4, 2003 by the Kentucky Public Service Commission, and applicable Kentucky law.

E. AT&T objects to BellSouth's Second Request for Production to AT&T to the extent that the Requests purport to seek discovery of matters other than those subject to the jurisdiction of the Commission pursuant to the FCC's Triennial Review Order and other applicable Kentucky law.

F. AT&T objects to BellSouth's Second Request for Production to AT&T to the extent that the Requests purport to seek disclosure of information that is proprietary confidential information or a "trade secret" pursuant to Kentucky law.

G. AT&T objects to all Requests which require the disclosure of information which already is in the public domain or otherwise on record with the Commission or the Federal Communications Commission ("FCC").

H. AT&T objects to BellSouth's Second Request for Production to AT&T to the extent that the Requests seek information and discovery of facts known and opinions held by experts acquired and/or developed in anticipation of litigation or for hearing and outside the scope of discoverable information Kentucky law.

I. Pursuant to the *Orders* issued in this proceeding on October 2, 2003 and November 4, 2003 by the Kentucky Public Service Commission, the Triennial Review Order, and applicable Kentucky law, to the extent that BellSouth's Requests request specific financial, business or proprietary information regarding AT&T's economic business model, AT&T objects to providing or producing any such information on the grounds that those requests presume that the market entry analysis is contingent upon AT&T's economic business model instead of the hypothetical business model contemplated by the Triennial Review Order.

REQUEST: BellSouth Second Request for Production of Documents

DATED: November 24, 2003

POD 1: Produce any maps and/or diagrams that illustrate the most current information available for the physical location of your high capacity transport and/or loop facilities within the Southeastern states.

Response: AT&T specifically objects to this request to the extent that it is overly broad, unduly burdensome, irrelevant, oppressive and not reasonably calculated to lead to the discovery of admissible evidence pursuant to the Procedural Orders.

Subject to the foregoing, and without waiving any objection, all identified documents have been attached to each specific interrogatory or attached herein.

REQUEST: BellSouth Second Request for Production of Documents

DATED: November 24, 2003

POD 2: Produce any documents identified in response to BellSouth's Second or Second Set of Interrogatories.

Response: All documents identified in response to BellSouth's Second or Second Set of Interrogatories are Attached to AT&T's Responses to BellSouth's Interrogatories.

REQUEST: BellSouth Second Request for Production of Documents

DATED: November 24, 2003

POD 3: Produce any business case from 2000 to present in your possession, custody, or control that evaluates, discusses, analyzes or otherwise refers or relates to your actual or planned deployment of high capacity transport and/or loop facilities within the Southeastern states.

Objection: In the Triennial Review Order, the FCC establishes the factors that a state Commission should consider in any analysis of a Loop and Transport potential deployment case.

“[T]he state commission must consider various factors affecting the ability to economically deploy These factors include: evidence of alternative loop deployment at that location; local engineering costs of building and utilizing transmission facilities; the cost of underground or aerial laying of fiber or copper; the cost of equipment needed for transmission; installation and other necessary costs involved in setting up service; local topography such as hills and rivers; availability of reasonable access to rights-of-way; building access restrictions/costs; availability/feasibility of similar quality/reliability alternative transmission technologies at that particular location.” (TRO, Paragraphs 335 and 410)

Given this directive from the FCC, information concerning the wire centers in the Southeastern states in which AT&T is “currently in the process of deploying or plans to deploy transport facilities and/or loop facilities beginning October 1, 2003 through December 31, 2004” is neither relevant to a potential deployment analysis nor likely to lead to the discovery of admissible evidence. By way of further response, this Interrogatory is asking for AT&T’s future capital planning forecast, the particulars of which, as BellSouth is well aware from its own planning and forecasting processes, likely will change quarter over quarter as circumstances change. In any event, AT&T’s future capital planning forecast is not relevant and to the extent AT&T implements any such plan, the results (but not any plans) might be relevant in any future “actual deployment” case that BellSouth is permitted to request under the TRO. AT&T

does not intend to provide this information to BellSouth absent a Motion to Compel and Order of a Commission requiring AT&T to do so.

REQUEST: BellSouth Second Request for Production of Documents

DATED: November 24, 2003

POD 4: Produce any business case from 2000 to present in your possession, custody, or control that evaluates, discusses, analyzes or otherwise refers or relates to your obtaining high capacity transport and/or loop facilities from other persons.

Objection: AT&T incorporates by reference its objection to POD No. 3 as if fully set forth herein.

REQUEST: BellSouth Second Request for Production of Documents

DATED: November 24, 2003

POD 5: Produce all documents from 2000 to present referring or relating to how you determine whether or not to deploy high capacity transport and/or loop facilities.

Objection: See AT&T's objection to Interrogatory Nos. 3 and 4, *supra*.

SUBMITTED this 15th day of December, 2003.

C. Kent Hatfield by MR-B

C. Kent Hatfield
Douglas F. Brent
Stoll, Keenon & Park, LLP
2650 AEGON Center
400 West Market Street
Louisville, KY 40202
(502) 568-9100 PHONE
(502) 568-5700 FAX

Martha Ross-Bain
AT&T
Senior Attorney
1200 Peachtree Street, NE
Suite 8100
Atlanta, GA 30309
(404) 810-6713

Attorneys for AT&T Communications of the
South Central States, LLC.